



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/780,308	02/09/2001	Fu-Tai Shih	10005922-1	6695

22879 7590 03/16/2005

HEWLETT PACKARD COMPANY  
P O BOX 272400, 3404 E. HARMONY ROAD  
INTELLECTUAL PROPERTY ADMINISTRATION  
FORT COLLINS, CO 80527-2400

EXAMINER

BAYARD, DJENANE M

ART UNIT PAPER NUMBER

2141

DATE MAILED: 03/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/780,308

Applicant(s)

SHIH ET AL.

Examiner

Djenane M Bayard

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10/19/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-7 is/are rejected.
- 7) ☒ Claim(s) 4 and 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

This is in response to amendment filed on October 19, 2004 in which claims 1-8 are pending. Applicant's arguments with respect to claims 1-8 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 and 5 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application 2001/0039579 to Trcka et al.

a. As per claim 1, Trcka et al teaches an admissions control system for a host site comprising a trap that withholds from a request processor incomplete HTTP requests (See page 4, paragraph [0041], the packet stream resulting from the passive data capture process is optionally filtered to remove packets which, based on pre-specified criteria, represent invalid or unwanted transmissions and thus have little or no value to the event reconstruction process. Depending on the network type and the surveillance goals sought to be achieved, these "bad" packets may include, for example, packets having a

Art Unit: 2141

checksum error, packets that have been corrupted by a data collision, and packets addressed to a nonexistent LAN or WAN entity. The general purpose of this step is to reduce the storage burden created by the recordation of the low-level packet data, without significantly inhibiting the ability to use the archival recording to reconstruct valid network transactions. The filtering-out of bad packets can alternatively be performed using filters that pass only selected types of packets) and that retires incomplete HTTP requests to avoid exceeding a storage limitation (See page 4, paragraph [0042], in the preferred network security and surveillance system described below, a temporary (e.g., 24-hour) record of these filtered-out packets is generated by automatically routing the bad packets to a cyclic recorder. This technique provides a window of time for enabling the bad packets to be evaluated, and/or preserved for subsequent evaluation). Furthermore, Trcka et al teaches wherein the packets are Http packets (See page 4, paragraph [0047]).

- b. As per claim 5, Trcka et al teaches a method of admissions control for a host site, said method comprising withholding incomplete HTTP requests from a request processor until they are complete; and retiring incomplete HTTP requests when associated storage limits are reached (See page 4, paragraph [0041]).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2141

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-3, 6 and 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application 2001/0039579 to Trcka et al in view of U.S. Patent No. 6,823,380 to Nace et al.

a. As per claim 2, Trcka et al teaches the claimed invention as described above. However, Trcka et al failed to teach a system comprising a deferral manager, said trap sending complete HTTP requests to said deferral manager, said deferral manager sending some of said complete HTTP requests to said request processor and responding with deferral messages to some others of said complete HTTP requests.

Nace et al teaches a system and method providing continual rate requests. Furthermore, Nace et al teaches comprising a deferral manager, said trap sending complete HTTP requests to said deferral manager, said deferral manager sending some of said complete HTTP requests to said request processor and responding with deferral messages to some others of said complete HTTP requests (See col. 5, lines 5-16).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate comprising a deferral manager, said trap sending complete HTTP requests to said deferral manager, said deferral manager sending some of said complete HTTP requests to said request processor and responding with deferral messages to some others of said complete HTTP requests as taught by Nace et al in the claimed invention of Trcka in order to read and process the requests based upon a rate determined by the scheduler (See col. 5, lines 12-16).

Art Unit: 2141

b. As per claims 3 and 6, Trcka et al teaches the claimed invention as described above. However, Trcka et al fails to teach wherein said trap includes at least one queue and a queue manager, said queue manager storing incomplete HTTP requests in said queue, said queue manager retiring a previously stored recent incomplete HTTP request when necessary to make room for a new incomplete HTTP request.

Nace et al teaches at least one queue and a queue manager, said queue manager storing incomplete HTTP requests in said queue, said queue manager retiring a previously stored recent incomplete HTTP request when necessary to make room for a new incomplete HTTP request (See col. 2, lines 5-30)

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate at least one queue and a queue manager, said queue manager storing incomplete HTTP requests in said queue, said queue manager retiring a previously stored recent HTTP request when necessary to make room for a new HTTP request as taught by Nace et al in the claimed invention of Trcka et al in order to read and process the requests based upon a rate determined by the scheduler (See col. 5, lines 12-16).

c. As per claim 7, Trcka et al teaches the claimed invention as described above. Furthermore, Trcka et al teaches storing a first incomplete HTTP request; and retiring a previously stored incomplete HTTP request when necessary to make room for said first incomplete HTTP request (See page 5, paragraph [0041]). However, Trcka et al failed to teach wherein the request are stored in a queue.

Art Unit: 2141

Nace et al teaches wherein the requests are stored in a queue (See col. 2, lines 5-30).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate wherein the request are stored in a queue as taught by Nace et al in the claimed invention of Trcka et al in order to read and process the requests based upon a rate determined by the scheduler (See col. 5, lines 12-16).

#### *Allowable Subject Matter*

5. Claims 4 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### *Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6,725,378 to Schuba et al teaches a network protection for denial of service attacks.

U.S. Patent No. 5,892,979 to Shiraki et al teaches a queue control apparatus including memory save data received when capacity of queue is less than a predetermined threshold.

Art Unit: 2141

U.S. Patent No. 6,714,553 to Poole et al teaches a system and method for flexible queuing of data packets in network switching.

U.S. Patent No. 5,991,881 to Conklin et al teaches a network surveillance system.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Djenane M Bayard whose telephone number is (571) 272-3878. The examiner can normally be reached on Monday- Friday 5:30 AM- 3:00 PM..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Djenane Bayard

  
RUPAL DHARIA  
SUPERVISORY PATENT EXAMINER